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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of

Market Entry and Regulation  
of International Common  
Carriers With Foreign  
Carrier Affiliations

RM-8355

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**REPLY COMMENTS OF  
BRITISH TELECOMMUNICATIONS plc**

British Telecommunications plc ("BT"), by its attorney, submits its Reply to the comments and oppositions filed November 1, 1993 on the Petition of American Telephone & Telegraph Company ("AT&T") for Rulemaking ("Petition").<sup>1</sup> In its Petition, AT&T asks the Commission to adopt new rules that would govern foreign carrier participation in the U.S. telecommunications market.

In its Comments, BT demonstrated that adoption of AT&T's rules as proposed would work to the advantage of well-funded competitors such as AT&T but to the detriment of U.S. telecommunications consumers. AT&T's proposal would effectively impose the U.S. regulatory regime on foreign countries and thus may prompt foreign administrations to impose onerous forms of regulation on U.S.

<sup>1</sup> Comments were filed by ACC Global Corp. ("ACC"), Sprint Communications Company L.P. ("Sprint"), MCI Telecommunications Corporation ("MCI"), DOMTEL Communications, Inc. ("DOMTEL"), the British Embassy, and Teleglobe Inc. Oppositions were filed by Telefonica Distancia de Puerto Rico, Inc. ("TLD"), EMI Communications Corporation, Cable & Wireless, Inc. ("Cable & Wireless"), and ENTEL International B.V.I. Corporation ("ENTEL").

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telecommunications companies and other entities operating aboard. Furthermore, AT&T's rules are anticompetitive in effect if not also intent. AT&T's criteria for "comparable market opportunities" and conditions for market entry would prevent or discourage foreign-owned carriers from entering either the U.S. domestic or international telecommunications markets and from investing in a U.S. carrier that participates in these markets. In its Comments, BT also urged the Commission to consider the appropriateness of imposing regulatory burdens on U.K.-based carriers that are not similarly imposed on U.S. carriers operating in the U.K. As BT demonstrated in its Comments, the U.S. regulatory regime imposes substantial barriers to full and effective participation by U.K.-based carriers, barriers that U.S. carriers do not face in the U.K. In addition, many U.S. carriers have made substantial inroads in the U.K. telecommunications market. Finally, BT showed that AT&T's allegations of unlawful exclusivities and discrimination with respect to the BT/MCI alliance are without merit and deserve no further consideration.

Virtually all the comments and oppositions filed in response to AT&T's Petition echo BT's concerns. With few exceptions, almost every party objects to AT&T's Petition as an unrealistic, unreasonable attempt to impose the U.S. regulatory regime on foreign administrations, a move that will stifle competition at home and possibly abroad. As MCI stated, "[the] real purpose, and inevitable effect, of

AT&T's draconian proposal is to discourage and inhibit U.S. and foreign carriers from establishing alliances in order to meet the increasingly sophisticated demands of customers, and to deter competition against AT&T in the international telecommunications marketplace."<sup>2</sup>

TLD's opposition provides perhaps the most vivid illustration of the issues raised and consequences foretold by AT&T's proposal. TLD contends that had the Commission adopted and imposed AT&T's rules in acting upon TLD's application to transfer assets to Telefonica de Espana - a transaction that effectively privatized TLD and that the Commission found to serve the public interest - the TLD transaction would not have taken place:

The provision of successful competitive telecommunications services requires the ability to respond to market conditions and to provide efficient, cost effective services benefiting the public. As the Commission knows, no buyer would purchase a company which would be barred from such free competition and locked into a 1992 "facility time capsule." It is equally unlikely that the Commonwealth of Puerto Rico would have been willing to sell its valuable asset under such terms, since to do so would have been contrary to its goal of improving off-island telecommunications services. Sale to a company which would not effectively compete would not benefit the people of Puerto Rico. Only AT&T, TLD's major competitor in the Puerto Rico/Virgin Island market, would benefit from such an arrangement.<sup>3</sup>

Similarly, Cable & Wireless points out the openness of the U.K. market to entry and participation by U.S. carriers

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<sup>2</sup> Comments of MCI at i.

<sup>3</sup> Opposition of TLD at 9.

and the dangers of imposing barriers to entry that do not exist abroad:

Comparing the FCC's 214 certificates (for any international service) and the U.K. national and international facilities-based PTO license, for example, there are substantial areas where U.S. carriers would have more opportunities abroad than would a U.K. carrier in the U.S. In particular, the U.K. license would grant U.S. carriers exceptionally broad authority to (1) construct networks within the U.K.'s jurisdiction to provide facilities-based public services worldwide without additional application; (2) construct and land submarine cables within the U.K.'s jurisdiction; and (3) have direct access to satellite systems, including Intelsat. Inviting foreign policymakers to so closely scrutinize U.S. regulatory conventions could result in rather unfavorable decisions, at least in the context of select services.<sup>4</sup>

Various parties describe the extensive participation of many U.S. carriers in the U.K. and other foreign telecommunications markets.<sup>5</sup>

The only party that fully endorses AT&T's Petition is Sprint. Sprint argues that "[there] is an immediate need for the Commission to examine the general issue of reciprocal rights for provision of domestic and international telecommunications services"<sup>6</sup> and that AT&T's proposals "are not only logical, but perhaps the only

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<sup>4</sup> Opposition of Cable & Wireless at 5-6.

<sup>5</sup> See Opposition of Cable & Wireless at 8 (U.S. carriers providing cellular, paging, PCS, cable TV, and local exchange services in the U.K.); Comments of MCI at 10 (AT&T's activities in China, Taiwan, and the Ukraine); Opposition of ENTEL at 20-21 (BellSouth's ownership of CIDCOM Larga Distancia, S.A. and Motorola's stake in a cellular system in Chile); and DOMTEL (GTE's ownership of CODETEL in the Dominican Republic).

<sup>6</sup> Comments of Sprint at 2.

reasonable course that can be followed"<sup>7</sup> in attacking the alleged problem of discrimination by foreign carriers entering the U.S. market. However, Sprint does not substantiate the "need" for the comprehensive review it advocates. Thus, Sprint's comments stand in sharp contrast to the opposition of Cable & Wireless and the comments of MCI, which demonstrate not only the adequacy of the Commission's existing rules but also the appropriateness of an approach that takes the differing market structures of each country into account.<sup>8</sup> Similarly, Sprint fails to substantiate the "reasonableness" of AT&T's proposed rules, which is not surprising, given that BT and every party in opposition has demonstrated that adoption of AT&T's rules will stifle competition in the U.S. telecommunications market.<sup>9</sup>

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<sup>7</sup> Id. at 4.

<sup>8</sup> See Opposition of Cable & Wireless at 6-17; Comments of MCI at 11-22.

<sup>9</sup> In its comments, Sprint suggests that the Commission withhold any action on the BT/MCI alliance until the proposed rulemaking is completed. Comments of Sprint at 6-7. BT and MCI previously addressed this argument in their response to the comments filed on their joint Petition for Declaratory Ruling concerning BT's acquisition of a 20 percent ownership interest in MCI. See Reply Comments of MCI and BT, filed October 12, 1993, In re MCI Communications Corp., File No. ISP-93-013. As stated therein, proposals to delay a ruling on the issues presented by the BT/MCI Petition must be rejected as unsupported by precedent and inconsistent with the equities of the case. The Commission will not defer applying or interpreting settled law in adjudicatory proceedings even though a subsequent rulemaking may have some bearing on the matter at issue. See Teleprompter Corp., 91 FCC 2d 146, 161 (1982). Furthermore, expedited consideration of the BT/MCI Petition is manifestly in the public interest, since BT's investment in MCI will strengthen MCI's financial resources and enable MCI to improve its services to U.S. customers. Sprint fails to demonstrate any harm that would warrant the delay it seeks and its request merits no further consideration by the Commission.

In light of the facts shown in the comments and oppositions filed thus far, it is at best questionable whether grant of AT&T's Petition and adoption of the rules proposed would serve the public interest. The Commission should proceed accordingly in acting on AT&T's Petition.


Respectfully submitted,

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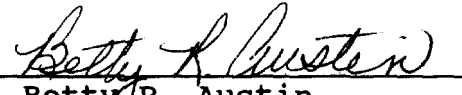
  
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November 16, 1993

CERTIFICATE OF SERVICE

I, Betty R. Austin, do hereby certify that on this 16th day of November, 1993, a copy of the foregoing Reply Comments of British Telecommunications was served via U.S. first class mail, postage prepaid, to the parties listed below.

  
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